



Advocates for Rural Broadband

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Filed Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Expanding Consumers' Video Navigation Choices, MB Docket No. 16-42; and Commercial Availability of Navigation Devices, CS Docket No. 97-80; Promoting the Availability of Diverse and Independent Sources of Video, MB Docket 16-41

Dear Ms. Dortch:

On Tuesday, September 20, 2016, the undersigned, Derrick Owens, and Gerry Duffy representing WTA – Advocates for Rural Broadband (“WTA”), Evelyn Jerden of LICT, Eric Schmidt of HomeTel, Mark Gailey of Totah Communications, and Bob DeBroux of TDS Telecom met with Gigi Sohn, counselor to Chairman Wheeler, Jessica Almond, legal advisor to Chairman Wheeler, and Tim Campbell, legal intern, to discuss the impact of the Commission’s proposed video navigation device rules on the cable television and Internet Protocol (“IP”) video operations of WTA members and other small rural telecommunications companies and the challenges small MVPDs face in providing video services.

Ms. Jerden described the cable, IPTV and SMATV operations of LICT companies operating in small rural communities around the country. Ms. Jerden explained that the biggest challenge in providing video services is the rising content costs that impede profitability of small providers’ video services. Jerden noted that like many small MVPDs, LICT companies continue to offer video services as a loss-leader component of a triple-play bundle to meet the full scope of consumer needs despite ongoing and significant challenges facing small MVPDs. Mr. Schmidt similarly described HomeTel’s operations in southern Illinois and the challenges his company faces to provide MVPD services to their 400 video customers. Mr. Gailey explained that although Totah Communications does not provide MVPD services today, Totah has in the past and would seriously consider entering the MVPD market in the future but for the ongoing challenges for small providers in the current video marketplace.

WTA emphasized the need for a permanent exemption for all small MVPDs serving fewer than 400,000 video subscribers from new rules developed in the video navigation proceeding, as explained in the Fact Sheet released on September 8, 2016.¹ WTA explained that an exemption for small providers is essential given the costs associated with the proposal documented in the record and the lack of opposition to exempting small MVPDs new requirements. Not only do small MVPDs lack the research and development teams necessary to create applications for a potentially unknowable number of platforms, but small MVPDs would also need to make substantial changes to headends in order to retransmit programming through an application. Many WTA members and other small MVPDs are

¹ Chairman Wheeler’s Plan to Increase Choice and Innovation in Video, “Fact Sheet” (rel. Sep. 8, 2016), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0908/DOC-341152A1.pdf.

already struggling to continue providing video service due to the high and rapidly increasing costs of obtaining retransmission consent and satellite program networks. Without the exemption, small MVPDs would be forced to increase further their retail rates to cover mandatory investments, divert resources away from broadband infrastructure investment and/or shut down their services. Either result will leave rural consumers with higher prices, less competition and fewer choices.

WTA also discussed the Notice of Inquiry on diverse and independent programming and the proposed NPRM scheduled for a vote at the Commission's next Open Meeting.² In addition to escalating retransmission consent and satellite programming prices, WTA highlighted the use by large programmers (including programmers owned by broadcast entities, MVPDs, and other major media companies not owned by a broadcast network or MVPD) of most favored nation clauses, bundling demands and minimum penetration requirements in agreements with small MVPDs. These practices, both separately and together, impair the ability of small MVPDs to offer innovative and affordable packages to their customers, including the ability to carry independent, niche programming. In particular, bundling and minimum penetration requirements expand the size and cost of basic service packages that all customers must subscribe to before obtaining additional tiers. WTA also explained that small MVPDs may incur additional costs to receive, process and retransmit unwanted networks that ultimately increases the overall cost of service for all subscribers. WTA discussed a la carte pricing and other possible solutions as well as the Commission's legal authority to inject consumer and market demand back into the market for video services.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceeding.

Respectfully submitted,

/s/ Patricia Cave

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cc(via email): Gigi Sohn
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² Press Release, "Tentative Agenda for September Open Meeting of the FCC" (rel. Sep. 8, 2016), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0908/DOC-341151A1.pdf.